IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10992 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAGDISHBHAI NATVARLAL THAKKAR

Versus

MAGANBHAI PUNJABHAI GOHEL

Appearance:

MR BG PATEL for Petitioner No. 1-4

MR YV BRAHMBHATT for Respondent No. 1-4

UNSERVED-EXPIRED (N) for Respondent No. 5

RULE SERVED for Respondent No. 6

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 14/08/2001

ORAL JUDGEMENT

This petition is preferred against the order dated 31st July, 2000 made by the Gujarat Revenue

Tribunal in Restoration Application No. 28 of 1999.

It appears that feeling aggrieved by the order of the authority below, the petitioners had preferred Revision Application No. 85 of 1997 before the Tribunal. Pending the said application, two persons viz., Gulabbhai Mangalbhai Chauhan and Pravinchandra Natvarlal applied for being impleaded as parties to the said revision application. On 25th February, 1999, the matter was posted for hearing of the said applications and for hearing on interim relief. The learned advocate representing the petitioners was not present before the Tribunal. Neither of the petitioners was also present. The Tribunal, therefore, dismissed the Revision Application for default of appearance. Feeling aggrieved, the petitioners filed Restoration Application No. 28 of 1999 and prayed for restoration of the revision application on the files of the Tribunal. The Tribunal, however, was of the view that neither the petitioners nor their advocate was prevented from attending the matter for the reasons beyond his control. The Tribunal, therefore, under the impugned order dated 31st July, 2000 dismissed the said application. Feeling aggrieved, the petitioners have preferred the present petition.

On the facts and in the circumstances of the case, the petition is allowed. The impugned order dated 31st July, 2000 made on Restoration Application No. 28 of 1999 is quashed and set-aside. The Restoration Application No. 28 of 1999 stands allowed. The order dated 25th February, 1999 made on Revision Application No. 85 of 1997 [Annexure-A to the petition] is quashed and set-aside. The Revision Application No. 85 of 1997 is ordered to be restored on the files of the Tribunal. The said revision application shall be decided in accordance with law. Rule is made absolute. The petitioners shall jointly pay the costs of Rs. 500/= to each of the respondents.

[Ms. R.M Doshit, J.]

Prakash*